IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIDNARY ORIGINAL CIVIL JURISIDICTION

SUIT NO.1080 OF 1973

M/s.Ramchand Silk Mills .. Plaintiffs

Vs.

Sharan Bros and Ors. .. Defendants

None for the plaintiffs

Mr.K.S.Jain for the defendants

CORAM: S.U. KAMDAR, J.

DATE : 9TH AUGUST, 2005

P.C. :

. The learned counsel for the defendants states that for the same cause of action, suit was filed in Delhi High Court and by order and judgment of Delhi High Court dt.24.12.96, the suit has been decreed in favour of the plaintiffs who are the defendants herein. The said order of the Delhi High Court is taken on record. In view of the decree granted by the said court, the present suit does not survive. As the suit is at the foot of the account, Civil Judge had decided the suit at Delhi High Court and has found that at the

foot of the account, the amount is due and payable to the defendants. During the pendency of the suit in Delhi High Court, an application was taken out for the stay of the present suit in this court and against the order passed by the learned single Judge refusing to grant the stay order an appeal was preferred being appeal no.463 of 1981. In the said appeal, the present suit was stayed. However, the learned counsel for the defendant states that the appeal preferred by him has been withdrawn today and therefore, the present suit can proceed. In view of the Delhi High Court order, the present suit does not survive any further and suit is required to be dismissed as infructuous.